

HOUSE BILL 1327
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 44, Chapter 17, relative to the protection of animals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, Chapter 17, is amended by deleting Part 1 in its entirety and by substituting instead Sections 2 through 16 of this act as new Part 1.

SECTION 2. This act shall be known and may be cited as the "Pet Protection Act of 2001".

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Adequate food and water" means food and water which is sufficient in amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal's health from a lack of food or water;

(2) "Animal shelter" means any facility operated by or under contract for the state, a county, a municipality, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes;

and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals;

(3) "Commissioner" means the commissioner of health;

(4) "Humane care" of animals means, but is not limited to, the protection from temperature extremes, adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed;

(5) "Kennel" means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for compensation;

(6) "Person" means any individual, association, partnership, corporation, or any other organization or entity;

(7) "Pet" means dogs and cats, including puppies and kittens. Pets do not include any wildlife regulated by the Tennessee wildlife resource agency or livestock; and

(8) "Pet dealer" or "pet dealership" means any person who sells, offers to sell, exchanges, or offers for adoption animals customarily maintained as pets in this state. Provided, a person who sells only animals that such person has produced and raised, not to exceed twenty (20) animals a year, shall not be considered a pet dealer under this act. "Pet dealer" or "pet dealership" also includes any individual animals kept by such a facility as breeding stock, such licensing of breeding stock to be part of the pet dealer or pet dealership license. "Pet dealer" or "pet dealership" shall not include a common carrier engaged in intrastate or interstate commerce. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not be considered a pet dealer under this act.

SECTION 4. (a) It shall be unlawful for any person to act as a pet dealer or operate a kennel or animal shelter unless such person has a valid license issued by the department of health. Any person acting without a license in violation of this subsection shall be guilty of a Class C misdemeanor and also shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation in addition to any other appropriate relief, including, but not limited to, the awarding of attorneys' fees and costs to the state for any filings relating to violations of any order under this part.

(b) Licenses shall be issued for a period of two (2) years. The commissioner may establish separate classes of licenses, including wholesale and retail licenses. The commissioner shall establish fees for licenses so that the revenue derived from the issuance of licenses shall offset the costs of administering this act. The commissioner may establish different fees for different classes of licenses. The commissioner may set the expiration dates of licenses issued pursuant to this act to ensure that not all licenses expire at the same time.

(c) Applications for licenses shall be on a form furnished by the commissioner and, together with such other information as the commissioner shall require, shall include:

- (1) The name of the applicant;
- (2) The business address of the applicant;
- (3) The complete business telephone number of the applicant;
- (4) The location of the pet dealership, kennel or animal shelter;
- (5) The type of ownership of the pet dealership, kennel or animal shelter;
- (6) The name of the owner or, if a partnership, firm, corporation, or other entity, the names of the partners or stockholders with more than ten percent (10%) of the outstanding stock of the corporation; and
- (7) A listing of all charges of animal cruelty in any other state or any charges of violations of the federal Animal Welfare Act.

(d)(1) If a license is not timely renewed, the commissioner shall send a registered letter to the license holder at such person's last known address informing the license holder that the license may be reinstated at any time within sixty (60) days of the mailing of the registered letter by payment of the annual renewal fee and of a penalty fee in an amount to be established by the commissioner.

(2) A license that is not renewed within sixty (60) days of the mailing of a registered letter pursuant to subdivision (1) shall expire and shall terminate.

SECTION 5. (a) Licenses must be prominently displayed at each place of business of a pet dealer and at each kennel and animal shelter in this state.

(b) Each pet dealer shall provide to each purchaser of a pet the name and address of the supplier of such pet, the date of birth of such pet, and the date when the pet dealer acquired such pet from the supplier.

SECTION 6. Any person who engages in this state in any activity for which a license is required by this act shall be subject to the provisions of this act. Each nonresident applicant for a license shall be required as a condition of licensure to consent to the jurisdiction of the courts of this state for any action filed under this act.

SECTION 7. (a) The commissioner may refuse to issue or renew or may suspend or revoke a license on one (1) or more of the following grounds:

(1) Material misstatement in the application for the original license or in the application for any renewal license under this act;

(2) Willful disregard or violation of this act or of any rule or regulation issued pursuant to this act;

(3) The applicant or any responsible officer thereof has been convicted of cruelty to animals by a local, state or federal governmental entity;

(4) Willfully aiding or abetting another in the violation of this act or of any rule or regulation promulgated pursuant to this act;

- (5) Allowing a license issued under this act to be used by an unlicensed person;
- (6) A violation of any law of this state or rule or regulation promulgated pursuant to this act related to the disposition of, dealing in, or handling of dogs and cats;
- (7) Making substantial misrepresentations or false promises in connection with the business of a licensee under this act;
- (8) Making misrepresentations or false promises through advertising, salesmen, agents, or otherwise in connection with the business of a licensee under this act;
- (9) Failure to possess the necessary qualifications or meet the requirements of this act for the issuance or holding of a license; or
- (10) Failure to provide proper facilities and care for the animals subject to this act.

(b) In addition to any other penalty provided by this act, a violation of subdivision (1), (5), (7) or (8) constitutes a violation of the Tennessee Consumer Protection Act of 1977, codified in Title 48, Chapter 18. For purposes of applying the Tennessee Consumer Protection Act to this section, a violation of this section shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce, subject to the penalties and remedies provided in such act.

SECTION 8. The commissioner is authorized to deny, suspend, or revoke any license issued pursuant to this act, in any case in which the commissioner finds that there has been a violation of this act or any rule or regulation adopted pursuant to this act. All proceedings for denial, suspension, or revocation of a license shall be conducted in conformance with the provisions of Title 4, Chapter 5.

SECTION 9. (a) The commissioner or the commissioner's representative is authorized to enter upon any public or private property at any time for the sole purpose of inspecting the business premises of any pet dealer or any animal shelter or kennel, and the dogs, cats, or other animals housed at such facility to determine if such facility is licensed and for the purpose

of enforcing this act and the rules and regulations promulgated by the commissioner pursuant to this act.

(b) Subject to the provisions of this act, the commissioner or the commissioner's representatives, or any law enforcement agency, may stop any motor vehicle or other conveyance transporting pets for commercial purposes for inspections as to the humane treatment of animals or for investigations in search of lost or stolen animals.

SECTION 10. (a) The commissioner or any duly authorized representative acting under the commissioner's authority is authorized and required to quarantine an animal commonly employed as a pet, the premises, or any area when the commissioner determines that such animal is infected with a contagious or infectious disease, that the unsanitary condition of such place or places might cause the spread of such disease, that such animal has been exposed to any contagious or infectious disease, or that the owner or occupant of such place or places is not observing sanitary practices prescribed under the authority of this act or any other law of this state.

(b) The commissioner or the commissioner's duly authorized representative is authorized to issue and enforce orders to the owners or custodians of any animals requiring them to hold such animals at a designated place, when the commissioner or the commissioner's duly authorized representative finds such animals are:

(1) Infected with or have been exposed to any contagious or infectious disease;

(2) Held by a person who is required to be licensed under this act and whose license has expired; or

(3) Held by a person who is required to be licensed under this act and who has failed to obtain a license within ten (10) days of the date on which written notice of need to obtain a license was given to such person by the commissioner or the commissioner's authorized representative.

(c) It shall be a Class C misdemeanor for any person to sell, use, or move any animal in violation of any quarantine or order issued pursuant to this section.

SECTION 11. A license issued pursuant to this act may be suspended or revoked if any person licensed under this act or any person employed by a person licensed under this act or under such person's supervision or control fails to:

(1) Keep the pet dealership premises, animal shelter, or kennel in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when needed;

(2) Provide adequate food and water;

(3) Provide adequate and humane care for any dog, cat, or other animal at such facility; or

(4) Take reasonable care to release for sale, trade, or adoption only those animals which appear to be free of disease, injuries, or abnormalities.

SECTION 12. It shall be a Class C misdemeanor for any person to ship any animal as pets, other than birds, cold-blooded animals, and rodents, into this state for the purpose of resale unless such animal is accompanied by a United States interstate or international certificate of health and a licensed veterinarian has visually examined such animal.

SECTION 13. The commissioner may cooperate with the United States Secretary of Agriculture in carrying out Public Law 89-544, commonly known as the Animal Welfare Act, as amended by Public Laws 91-579 and 94-279, and the rules and regulations issued by the Secretary of Agriculture under such act. The commissioner may promulgate rules and regulations to facilitate cooperation and avoid any unnecessary duplication or conflict of activities by the department and the Secretary of Agriculture in regulating the activities or areas covered by this act and Public Law 89-544.

SECTION 14. (a) The provisions of this act shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of food or fiber production.

(b) It is the legislative intent that nothing in this act shall change, modify or amend, in any way, any Title 70 fish and wildlife provision or any rule and regulation or proclamation promulgated pursuant thereto, nor shall this act apply to or interfere with any conduct or activity permitted or regulated pursuant thereto such as hunting, fishing, possessing, taking, killing, eating, or capturing fish and wildlife.

(c) In no way shall the provisions of this act apply to normal and customary agricultural practices, such as breeding programs, research facilities or the production, marketing and disposal of farm animals, livestock or exotic animals, including, but not limited to, poultry, fish, shellfish, or any other agricultural commodity produced in the state.

(d) The provisions of this act shall not apply to activities or conduct that is prohibited by §§ 39-14-203 and 39-14-204.

SECTION 15. The commissioner is hereby authorized to promulgate rules and regulations pursuant to Title 4, Chapter 5, necessary to effectuate the provisions of this act.

SECTION 16. In addition to the remedies provided in this act and notwithstanding the existence of an adequate remedy at law, the commissioner is authorized to apply to the chancery court of the county in which a violation of this act is observed for an injunction or restraining order. Such chancery court shall have jurisdiction and for good cause shown shall grant a temporary or permanent injunction or an ex parte or restraining order, restraining or enjoining any person, partnership, firm, corporation, or other entity from violating and continuing to violate this act or any rules and regulations promulgated pursuant to this act. Such injunction or restraining order shall be issued without bond and may be granted notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18. For the purposes of promulgating rules and regulations this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect September 1, 2001, the public welfare requiring it.